THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.2175 OF 2006

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Dated: 06-02-2006

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Between

P. Venkateswarlu, S/o. Pedda Chennaiah,

Occ: Agriculturist, Resident of D.No.6/443,

New Market Road, Old Bus Stand, Markapur,

Prakasam District.

...PETITIONER

AND

The Commissioner, Markapur Municipality,

Markapur, Prakasam District and others.

...RESPONDENTS

ORDER:

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Petitioner seeks a Writ of Mandamus to declare the action of the respondents in taking steps to demolish the existing structures bearing Municipal No.D.No.6-442(4), 6-443 and 6-444, New Market Road, Old Bus Stand, Markapur, Prakasam District without following due process of law and without initiating proceedings under the Land Acquisition Act (for short 'the Act') as illegal and arbitrary.

Learned counsel for the petitioner submits that the petitioner constructed certain structures in the aforementioned door numbers after obtaining permission from the municipal Commissioner vide

BA No.32/95/F/22:5:95, BA No.45/96/F dated 23.04.1996. He further submits that for the

purpose of widening the old bus stand road of Markapur the second respondent earmarked the structures belonging to the petitioner and initiated steps to demolish the same without following due procedure prescribed in law. He further submits that even under the Municipalities Act without acquiring the lands of the private citizens, portion of any property cannot be taken away for the purpose of road widening, either by way of private negotiations or by way of initiating proceedings under the Act. He further submits that the petitioner has not encroached any road and he has constructed the building or structures as per the municipal permission only.

I am not inclined to express any opinion as to whether the land in question belongs to the petitioner or the municipality. If any portion of the property of the petitioner is coming in the way of road widening the respondents straightaway cannot dispossess the petitioner or demolish the existing structures without following due process of law.

Having regard to the facts and circumstances of the case,
the writ petition is disposed of directing the respondents not to dispossess the petitioner or demolish the structures belonging to the petitioner without following the due procedure prescribed in law.

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V. ESWARAIAH, J

February 6, 2006

Note: Furnish C.C. of the order by 08.02.2006

(**B/o**)

DSK